

**California Department of Transportation  
Native American Advisory Committee  
Environmental Subcommittee Meeting  
October 16, 2001**

**In attendance:**

Bill Allan, Bureau of Indian Affairs, Pacific Region  
Tina Biorn, California DOT, Environmental Analysis, HQ  
Margaret Buss, California DOT, Environmental Analysis, HQ  
Dwight Dutschke, Office of Historic Preservation  
Cynthia Gomez, California DOT, Native American Liaison Branch, HQ  
Greg King, California DOT, Environmental Analysis, HQ  
Keith Robinson, California DOT, Office of State Landscape, HQ  
Stan Anderson, Tuolumne Me-Wuk Rancheria  
Frances Gonzalez, Guidiville Rancheria  
Donald Duncan, Guidiville Rancheria  
Demery Bill, Cortina Rancheria  
Glenn Gmoser, California DOT, Environmental Analysis, HQ  
Gary A. Scarborough, Tuolumne Me-Wuk  
Lisa Cathcart-Randall, California DOT, Environmental Program, District 10  
Kathleen Sartorius, California DOT, Native American Liaison, D-1, 2,3  
Kathleen Zahniser, California DOT, Planning, D-10  
Irenia Quintiquit, Robinson Rancheria  
Denise O'Connor, California DOT, Environmental Analysis, HQ  
Jila Priebe, California DOT, Native American Liaison Branch, HQ  
Randy Yonemura,  
Caleen Sisk- Franco, Winnemen Wintu  
Mark Franco, Winnemen Wintu  
Meyo Marrufo, Robinson Rancheria  
Neda Lawson, California DOT, Planning  
Margaret Franklin  
Kesner C. Flores Jr. Cortina Indian Rancheria

Welcome and introductions were made.

**Agenda item:**

**NAGPRA Compliances Status**

Tina Biorn, the Department of Transportation, Environmental Analysis, provided information regarding the federal Native American Grave Protection and Repatriation Act (NAGPRA) compliance and status. She provided information regarding the status of the Department's NAGPRA compliance and procedure. She also talked about the passage of a new assembly bill, AB 978, referred to as the California Native American Graves Protection and Repatriation Act. The Bill will require all state agencies and

museums that receive state funding and that have possession or control over collections of human remains or cultural items, to complete an inventory and summary of these remains and items on or before January 1, 2003. A copy of Assembly Bill No. 978, Steinberg, was provided at the meeting to the participants for their review.

**Points and questions:**

**Q- Will Caltrans help with repatriation?**

**Q- What is Caltrans stance on Universities who won't repatriate?**

**A-** Caltrans only has involvement if the remains or items come from collections generated by Caltrans' activities or from within Caltrans's right-of-way. Although Caltrans will seek to repatriate, the law allows for agencies and universities not to repatriate in certain instances. Caltrans and Universities have full control of remains. The landowner has full ownership over any cultural collections found or gathered outside of Caltrans's right-of-way. In regard to contractor responsibility, if contractor fails to repatriate, Caltrans can terminate the contract and the contractor must agree to relinquish position of all cultural collections and remains were gathered in Caltrans's right-of-way. Caltrans will review any such decision on a case-by-case basis, and work with the university and claimants regarding the repatriation.

**Action Items:**

- a) If the tribe has an appropriate curation site, can it be curated there?
- b) Who will participate in inventories?
- c) Can Caltrans incorporate terms and conditions regarding repositories that are not repatriating human remains or cultural items subject to repatriation?
- d) Provide a listing of repositories that Caltrans curates with.
- e) Look into the position that UC Davis took regarding the Applegate site.  
(Explain what the position was.)
- f) Provide a list of the repositories that meet the standards required, and provide those standards in the event a tribal repository was interested in contracting with CT for curation.
- g) Identify who participates in identifying inventoried items, sacred items, etc. Call Dr. Johnson at CSUS to determine whom he involved during their inventory.

**Agenda Item:**

**Department's obligations regarding projects outside of Caltrans right-of-way**

Tina Biorn followed up with the Department's obligations regarding projects outside of Caltrans right of way.

At this point the response is that Caltrans does not have legal authority over other agencies projects. Caltrans has responsibility to notify other agencies regarding possible impact on an Environmental Sensitive Areas (ESAs). In regard to issuance of a permit, if Caltrans issues a permit for an activity that would impact an ESA outside of Caltrans's right-of-way, Caltrans has a responsibility to notify the permittee of the area and can make recommendations, but we cannot deny the permit, if the permittee's actions are not directly impacting Caltrans's legal jurisdiction (transportation system). However, our direction is not clear.

### **Action Item and Follow up**

Tina will put together an internal meeting with Caltrans staff to examine the issue more thoroughly, and then bring it back to the subcommittee for discussion.

### **Agenda Item:**

#### **TEA 21 Archaeology Survey (D-10)**

Margaret Buss followed up and reported on the status of District 10's TEA 21 archaeology survey. District 10 Transportation Enhancement Activity (TEA) will begin with a walking survey of all Caltrans' two-lane rural roads in the district. The purpose of the survey is identifying the sensitive cultural resources areas, which enable Caltrans to use the information for future project planning. She also, handed out a copy of the summary explaining how the TEA 21 grant for Archaeological Roadside Inventory for the District 10 (including Counties; Alpine, Amador, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus, and Tuolumne) came about. She also, announced dates for the *kickoff meetings* regarding these surveys. The purpose of these public meeting is to inform the Native American community about the project and gather input and concerns to incorporate into the plans.

### **Points and questions:**

**Q-**Why isn't remote sensing used instead of, or in addition to the walking survey?

**A-** Remote sensing is not in the budget for this particular project.

### **Action items:**

- a. Check into the status for the District 2 survey.
- b. Check out the status of the record search and the TEA survey that District 3 plans to conduct.

### **Preliminary Environmental Analysis (PEAR)**

Denise O'Connor discussed the importance of the Preliminary Environmental Analysis Report (PEAR). The Preliminary Environmental Analysis Report (PEAR) is an important part of the Project Study Report. The PEAR provides the initial environmental evaluation of a project and all feasible alternatives before it is funded. Because the environmental process can have a substantial impact on the project alternatives, design, costs, schedule, and delivery, the PEAR must clearly present and discuss the results of preliminary environmental studies in order to identify environmental constraints that may affect design. This document can serve as a valuable guide for environmental planners.

She mentioned that she is currently in the processes of updating this document. She mentioned that as soon as the draft is ready she would provide a copy to the Committee for review and comments.

### **Points and Questions:**

Q- how could regional transportation agencies be held more accountable for their actions when dealing with the issue of *consultation* with tribes?

### **Action item:**

The Native American Liaison Branch will put together a report for the California Transportation Commission (CTC) on how regional transportation agencies are including tribal concerns in their long-range Plan and as the method and process that they use for consultation with tribes.

### **Agenda Item:**

### **Sonora Bypass Project**

Stan Anderson gave a presentation on the status of the Sonora Bypass Project. He discussed how Caltrans and the Tribes are working together **now** and how they are working to agree on protection of the sites. Lisa Randall also discussed what was learned from this project. Lessons learned:

- Early consultations with Tribes
- Caltrans and the Tribes must work together early on to reach a consensus.
- Have archaeological/Native American monitors onboard for all earth disturbing activities.
- Contacting the right people early on.

### **Points and Questions:**

Dwight asked the question regarding Caltrans' environmental documents and procedures? He asked, if ones (other agency's) environmental document is insufficient, will Caltrans do their own?

### **Agenda Item:**

#### **Highway 50 Camino Project:**

Randy Yonemura discussed the Highway 50 Camino Project. He pointed out reasons as to why the project has encountered so many different problems:

- Breakdown of communication between different functional units within Caltrans (Design and Environmental department)
- Not notifying appropriate people (Native Americans)
- Not having monitors on site at the time of construction
- Not following the instructions of SHPO

#### **Points and questions:**

- How does environmental data get transferred into plans? Including change orders.
- Breakdown of communication between Districts and interested parties, Native American community and tribes.
- Does environmental staff know about obstruction?
- Are cultural effects taken into consideration? May not be archaeological but cultural
- More cross training and integration
- Involve Native Americans in training of Caltrans staff

#### **NEXT MEETING:**

Thursday, February 21, 2002 from 10 AM – 4 PM. Location to be determined, preferably the Woodland Training Center. Jila Priebe, NALB is the coordinator for the Subcommittee meetings. She can be reached at (916) 651-8195. If you have any agenda items for the next meeting please contact her as soon as possible.

The meeting was adjourn